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**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH, CENTRAL DIVISION**

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MP-OTHA Corporation,  
Consolidated Plaintiff,

v.

As American as Doughnuts, Inc.;  
Douglas E. Bagley, d.b.a. Spudnuts; and  
DOES 1-10,  
Consolidated Defendants.

**MOTION TO DISMISS CONSOLIDATED  
DEFENDANTS FIRST AND SECOND  
COUNTERCLAIMS**

Case No. **2:10CV01138 CW**  
(consolidated with  
Case No. 2:11CV00241 CW)

District Judge: **Clark Waddoups**

Magistrate Judge: **Brooke C. Wells**

Consolidated Plaintiff MP-OTHA Corporation moves to dismiss Consolidated Defendants' as American as Doughnuts, Inc., Douglas E. Bagley d.b.a. Spudnuts First and Second Counterclaims in the Answer to the First Supplemental Complaint for failure to state a claim upon which relief can be granted pursuant to Fed. R. Civ. P. 12(b)(6). This motion is accompanied by a supporting memorandum.

Date: January 13, 2012

By: /s/ Alan L. Edwards  
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